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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,726

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David M. Murphy

2507-7830US (22120-US)

1945

60794

7590

06/01/2009

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EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3633

NOTIFICATION DATE

DELIVERY MODE

06/01/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,726	<b>Applicant(s)</b> MURPHY ET AL.	
	<b>Examiner</b> PHI D. A	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 11, 12 and 14-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 7 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 8-10, 21, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Warren (6910304).

3. Warren (figures 11-12, 20-21) discloses deployable truss comprising: a plurality of column (302, 304, 306, 104, 102, 106, 108) members connected at their ends to form a deployable truss that forms a rigid structure in a deployed state and that has a stowage volume less than its deployed volume in a collapsed state, wherein at least some of the plurality of column members comprise column assemblies including a plurality of at least three strut members (figure 11-12), each strut member of an associated column assembly being connected to each other strut member of the associated column assembly at a first end of the column assembly and at a second end of the column assembly (by their association with parts 12', 14'), wherein strut members of a column assembly are substantially symmetrically arranged about a centerline of the column assembly, wherein strut members of a column assembly are further connected to each other at a location between the first and second ends of the column assembly when the truss is in the deployed state (see figures 11-12), wherein each column assembly further comprises a spacer (figure 11) connecting the plurality of strut members of the column assembly at a location between the first end and the second end of the column assembly, wherein the

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spacer connects the strut member of the column assembly near a midpoint between the first and second ends of the column assembly, wherein tile spacer is collapsible to a stowed configuration when the truss is in the collapsed state and expandable to a deployed configuration that radially spaces the plurality of strut members of the column assembly away from a longitudinal centerline of the column assembly when the truss is in the deployed state, wherein the plurality of strut members of the column assembly taper toward a centerline of the column assembly at the first end and the second end of the column assembly when the truss is in the deployed state, wherein at least one of the plurality of strut members comprises a rod, wherein each of the column assemblies is tapered on at least one end.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warren (6910304).

Warren shows all the claimed limitations except for the strut members comprising tubes.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Warren's strut members to show the members being tubes since tubular members and substantially rectangular solid member would provide the same function of reinforcing the foldable member.

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6. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren (6910304).

Warren shows all the claimed limitations except for at least one of the plurality of strut members is formed from a continuous fiber reinforced composite material, wherein the continuous fiber reinforced composite material comprises glass fibers, wherein the continuous fiber reinforced composite material comprises graphite fibers

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Warren's strut members to show at least one of the plurality of strut members is formed from a continuous fiber reinforced composite material, wherein the continuous fiber reinforced composite material comprises glass fibers, wherein the continuous fiber reinforced composite material comprises graphite fibers in order to form resilient and strong reinforcing members and it would have been an obvious matter of engineering design choice to choose a suitable material for forming the reinforcing members as long as it provides the proper reinforcing properties.

***Allowable Subject Matter***

7. Claims 7, 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 41 is allowed.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-3, 7-10, 13, 20-25, 41 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's statement to the ownership of the disclosure to AEC is persuasive. The rejection based on AEC, is hereby withdrawn.

***Conclusion***

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 11/14/08 and 3/3/2009 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/  
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

5/25/09